

April '13

Submission on Review of CCMA  
Consultation Paper CP 63  
Central Bank of Ireland

NEO Financials

Paul C Carroll FCCA

Debt Restructuring Expert

[www.neofinancialsolutions.com](http://www.neofinancialsolutions.com)

Phone +353 (01) 437 0908

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**About the Author Paul C Carroll FCCA**



Paul qualified as a certified accountant in the early 80's and immediately commenced his own accountancy practice specialising in providing accounting audit and taxation services to small and medium sized enterprises in Ireland.

After 15 years in practice he successfully made the move into industry taking up a Chief Financial Officer role with a public company with ambitions to list on NASDAQ.

With the onset of the 'dot com' bubble Paul exited the software company in 2001 and commenced a property development company in 2002 working mainly in Northern Ireland and the UK.

In 2010 Paul's property company was a victim of the property crash. He then had to negotiate his way out of a very significant negative personal debt position. In doing so he experienced firsthand the lack of independent quality advice for people in similar circumstances. Out of this adverse personal experience and using his 25 years business and financial experiences NEO Financial Solutions was born.

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### 1. Executive Summary

This submission addresses specific areas within the consultative document which we at NEO Financial Solutions have had specific experience of either through interaction directly with lenders or clients experiences relayed to us.

It is our experience and unfortunate believe that all lenders have consistently demonstrated that they are unable and unwilling to deal with customers mortgage arrears issues in a fair, open, non aggressive or non intimidating way despite the guidelines contained in the current CCMA.

Lending institutions are not capable of being independent when it comes to making or proposing restructuring decisions that are sustainable and equitable to the **customer**. It is not possible for the same lending institution to conduct an independent appeal on a decision that it itself has made.

Our direct experience of this is that of the 38 appeals on restructuring decisions we have made to various lenders during the first quarter of 2013 **ZERO** have been upheld. This is not because none had any merit but because lenders cannot be independent.

It is our view that an **independent lending review body** (ILRB) should be set up and funded by the lenders and operated through an expanded MABS and/or Citizens Advice Bureau which would set out the criteria and deal directly with such items as:

- Non co-operation in mortgage arrears cases (both lender and customer)

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- Reasonable time to respond and reasonable requests for information (taking into account customers circumstances for instance if they have emigrated)
- Lenders customer contact procedures and policy (which should ban the use of auto diallers and daily funds collections targets) of Arrears Support Units
- Detail the manner in which lenders should be compelled to deal with customers who wish to avail of the Personal Insolvency processes
- Deal directly with appeals and complaints by customers of bank dealings and decisions (getting a no twice does not constitute an appeal)
- Report openly on a quarterly basis the number of appeals considered and numbers upheld/declined
- The extent and quantity of information which a lender is entitled to request from a customer in completing a SFS
- Set down the specific circumstances where customers can be moved from tracker mortgages

## 2. Non co-operation

It is our experience that the lenders themselves are often non co-operative in the manner in which they choose to not engage with some customers either by simply ignoring requests for information or refusing to give contact details (email addressed, direct dial phone numbers etc.) of personnel dealing with customers. We recommend that all lenders personnel dealing with customers must give full contact details to customers.

We believe that a lenders decision to deem a customer non co-operative should be open to appeal to an independent body such as the ILRB suggested above.

## 3. Personal Insolvency process

Lenders should be **compelled** to make it clear that if they are not willing to come to an arrangement with the customer to restructure debts that they will co-operate and give consent to an insolvency arrangement which is proposed by a personal insolvency practitioner (PIP) which the PIP considers fair, reasonable and sustainable for the customer.

#### **4. Standard Financial Statements**

The amount of information necessary to be included in the SFS should be given due regard to the complexity of the case, the availability of other more suitable information like properly structured statement of affairs or other accounting information.

Where a customer simply wishes to dispose of a distressed property the necessity for an extensive SFS should be removed. This would be particularly appropriate where a customer has emigrated and wishing to dispose of a secured asset.

#### **5. Tracker Mortgages**

We strongly believe that if a lender is allowed to change a borrower from a tracker it should only happen in cases where a significant write off is taking place (40% or more), which will bring a loan to value of no more than 90%, the new interest rate be at least 1% below current variable rates, the term of the new loan be no longer than 20 years and the new capital and interest loan repayments be sustainable for the borrower.

END

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